

Exhibit 8

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May 12, 2022

CONFIDENTIAL COMMUNICATION (FRE 408)

VIA EMAIL ONLY (awilcox@wilcoxip.com)

Ms. Angela C. Wilcox
Wilcox IP, P.C.
20 North Wacker, Suite 1000
Chicago, Illinois 60606

RE: FORMA Rebrand
Our File 220428-00003

Dear Ms. Wilcox,

We confirm receipt of your April 29, 2022 letter on behalf of Twic, Inc. ("Twic") ("Response Letter"), responding to our April 18, 2022 letter on behalf of Forma AI Inc. ("Forma") ("Demand Letter"). Forma reiterates its request that Twic cease use of and rebrand away from the Forma name, including withdrawing the Application.

First, and most importantly, there are and continue to be instances of actual consumer confusion substantiating our assertions of likelihood of confusion and documenting the violations of Forma's trademark rights. We enclosed as Exhibit A to the Demand Letter one such example - Medhealth Outlook's post about Twic's rebrand on LinkedIn's platform while tagging Forma. The Response Letter completely fails to address the actual confusion evidenced in Exhibit A.

Furthermore, we enclose as Exhibit D yet another example of actual consumer confusion – the first correspondence occurring between the dates of the Demand Letter and Response Letter – wherein a Twic customer reached out to Forma¹ twice inquiring about its Twic account. These instances further illustrate the ongoing consumer confusion and highlight the need for Twic to immediately cease use of and rebrand away from the Forma name. As Twic's customer is clearly confused as to the source of its services and/or affiliation between our clients, we request that Twic immediately reach out to its customer to correct this issue.

Second, Forma's active and ongoing use of the FORMA.AI mark in the United States dates back to at least as early as October 2017. Twic's statement that Forma is "headquartered

¹ Forma received the first communication on May 4, 2022 and then another communication on May 11, 2022.

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in Toronto, Canada" and that "90% of its employees are located outside the United States" is irrelevant and does not undermine or diminish Forma's prior trademark rights in the United States. As you are aware, the geographic scope of Forma's rights are not where Forma or its employees are located – but where "the mark is both known and recognizable" by customers. We are not inclined to provide business sensitive documentation of Forma's U.S. customers at this time. The declaration of such use is available via the records of the U.S. Patent and Trademark Office.²

Third, as demonstrated by actual consumer confusion, we disagree that the ".AI" suffix or Twic's design element obviates the clear similarities between Twic's FORMA mark and Forma's FORMA.AI mark. The "forma" literal element is dominant in creating a commercial impression for the FORMA.AI mark.³ The "forma" element is dominant, in part, because it is the first portion of the mark and consumers are inclined to focus on the first word of a mark.⁴ The "forma" element is dominant, in other part, because it is the fanciful term, rather than the suggestive suffix "AI."⁵ The suffix "AI" is suggestive of "artificial intelligence," as noted in the Response Letter. Yet, Twic utilized the twic.ai domain name, which now forwards to joinforma.com, indicating that artificial intelligence may also be a feature of Twic's software platform. Therefore, even if the ".AI" suffix had a significant impact on the commercial impression (which it does not), that impact would not be enough for consumers to distinguish between the source of software services that both feature artificial intelligence. These differences in the marks are simply not enough to avoid consumer confusion in the marketplace.

Fourth, while we reviewed the third-party registrations attached to the Response Letter, it is notable that none of the registrations are for software services with similar functions or used in similar industries as Twic and Forma. The overlap between the purpose and function of employee performance and compensation management software and employee benefit management software renders Twic's use of FORMA highly related and confusingly similar to Forma's pre-existing use of FORMA.AI. The overlap is further compounded by the same and overlapping industries.

Moreover, in addition to the function and industry dissimilarities, it is also notable that all but one of the cited registrations contain terms, prefixes, or suffixes in conjunction with

² U.S. Serial Numbers 97/342,791 and 97/342,837.

³ See *In re Viterra, Inc.*, 671 F.3d 1358, 1367, 101 USPQ2d 1905, 1912 (Fed. Cir. 2012) (citing *Interlego AG v. Abrams/Gentile Entm't, Inc.*, 63 USPQ2d 1862, 1863 (TTAB 2002)); TMEP §1207.01(b)(iv).

⁴ *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 1372-73, 73 USPQ2d 1689, 1692 (Fed. Cir. 2005).

⁵ See, e.g., *In re Dixie Rests., Inc.*, 105 F.3d 1405, 1407, 41 USPQ2d 1531, 1533-34 (Fed. Cir. 1997).

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"forma" making them more distinguishable in appearance and commercial impression than two users of FORMA and FORMA.AI. The one cited registration for Forma without any other terms, prefixes, or suffixes is not even registered in relation to software platforms, much less a software platform related to employee management. As shown in Exhibit B of the Response Letter, Twic and Forma appear to be the only users of "forma" for a software platform related to employee management. Consequently, the registrations identified in the Response Letter do not support the assertion of any "vast dilution" of the FORMA term.

Ultimately, while Forma appreciates Twic's willingness to enter into a coexistence agreement and not "take issue" with Forma's federal trademark applications (U.S. Serial Numbers 97/342,791 and 97/342,837), Forma remains concerned about the ongoing actual consumer confusion and likelihood for future confusion. Such confusion is damaging to both Twic and Forma, and, as it has occurred between the dates of the Demand Letter and Response Letter, will only continue to increase as time goes on. The amending of the identification of services in the Twic application for FORMA (U.S. Serial Number 97/268,559) (the "Application") is not a sufficient resolution as it does not address the concerns about ongoing consumer confusion.

To resolve this matter, and to protect the customers and brands of Twic and Forma, Forma must reiterate its request and further request that Twic:

1. Cease use of the FORMA mark and any other designations likely to cause confusion with the FORMA.AI mark;
2. Abandon the pending Application to register the FORMA mark;
3. Relinquish or transfer to Forma the domain name joinforma.com and any other domains, social media accounts, or handles incorporating the word "forma"; and
4. Immediately respond to Emily Yedinak of Rubrik to correct the confusion and provide us with confirmation that Twic has taken action to correct the confusion (*See Ex. D*).

We look forward to a response on the above requests no later than **Friday, May 20, 2022**.

All rights and remedies expressly reserved.

WARD AND SMITH, P.A.

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Yours truly,

/Angela P. Doughty/

Angela P. Doughty

cc: Erica B. E. Rogers (via email)

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Exhibit D

May 4, 2022 Misdirected Communication


From: Emily Yedinak <emily.yedinak@rubrik.com>
Sent: Wednesday, May 4, 2022 3:55:00 PM
To: Nabeil Alazzam <nabeil@forma.ai>; jallen7735@gmail.com <jallen7735@gmail.com>
Cc: Natalie Cowden <natalie@twic.ai>
Subject: Access Issue - Jeremy Allen

EXTERNAL EMAIL

Hi Forma Support Team,

Jeremy Allen (included on this thread) will be officially terminated as of June 3rd; however he no longer has access to SSO or his Rubrik email. Can you help him access his account so he can submit claims prior to his 6/3 termination?

Thank you!

 **rubrik** | Emily Yedinak
Senior Benefits Analyst at Rubrik
E emily.yedinak@rubrik.com M 650-781-0228 W www.rubrik.com
A 3495 Deer Creek Road Palo Alto, CA 94304

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May 11, 2022 Misdirected Communication

From: Emily Yedinak <emily.yedinak@rubrik.com>
Date: Wednesday, May 11, 2022 at 7:27 AM
To: Nabeil Alazzam <nabeil@forma.ai>
Cc: Natalie Cowden <natalie@twic.ai>; jallen7735@gmail.com <jallen7735@gmail.com>
Subject: Re: Access Issue - Jeremy Allen

EXTERNAL EMAIL

Hi Forma,

Can someone please follow up on this?


Emily

On Wed, May 4, 2022 at 1:55 PM Emily Yedinak <emily.yedinak@rubrik.com> wrote:

Hi Forma Support Team,

Jeremy Allen (included on this thread) will be officially terminated as of June 3rd; however he no longer has access to SSO or his Rubrik email. Can you help him access his account so he can submit claims prior to his 6/3 termination?

Thank you!

 **rubrik** | Emily Yedinak
Senior Benefits Analyst at Rubrik
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